

## AMENDING THE ACT KNOWN AS THE PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

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MARCH 23 (legislative day, MARCH 5), 1942.—Ordered to be printed

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Mr. SMITH, from the Committee on Agriculture and Forestry, submitted the following

## REPORT

[To accompany H. R. 6360]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 6360) to amend the act known as the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531), approved June 10, 1930, as amended, having considered the same, report thereon with the recommendation that the bill do pass without amendment.

A full explanation of the bill is incorporated in the House report which is attached hereto and titled "Exhibit A."

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EXHIBIT A

[H. Rept. No. 1840, 77th Cong., 2d sess.]

The Committee on Agriculture, to whom was referred the bill (H. R. 6360) to amend the act known as the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531), approved June 10, 1930, as amended, having considered the same, report thereon with a recommendation that it do pass, without amendment.

## STATEMENT

This bill was introduced at the request of the Department, as will be shown from attached letter addressed to the Speaker of the House. This letter will also explain the provisions of the bill and the need for its enactment.

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DEPARTMENT OF AGRICULTURE,  
Washington, D. C., January 3, 1942.

The honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEAR MR. SPEAKER: There is submitted herewith a copy of a proposed bill to amend section 2, paragraph 4, of the Perishable Agricultural Commodities Act, 1930, as amended. This draft is submitted with the hope that it may be given favorable consideration at the earliest possible moment, as a specially constituted three-judge Federal court, sitting in the city of Chicago, Ill., rendered a decision

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on December 18, 1941, which will disrupt the efficient administration and enforcement of the act.

This decision relates to the interpretation of section 2, paragraph 4, of the Perishable Agricultural Commodities Act, which provides among other things, that it shall be a violation of the act for any commission merchant, dealer, or broker "to fail or refuse truly and correctly to account promptly in respect of any transaction in any such commodity to the person with whom such transaction is had." For the more than 11 years that this law has been in effect it has always been considered that the phrase "to account" included the actual making of payment. This view was held justified by various court decisions, including one under the Produce Agency Act (44 Stat. 1355) in which the same language appears.

Recently proceedings were initiated in Chicago seeking to have set aside an order of the Secretary of Agriculture revoking the license of Gerstein & Co., of Chicago, for failure to pay growers and shippers for produce involved in transactions conducted by it. The specially constituted three-judge Federal court which considered this matter, has just decided that the word "account," as used in the Perishable Agricultural Commodities Act, does not include the making of payment. From the record of discussion of this measure in Congress prior to its enactment, and especially from the report of the Committee on Agriculture of the House of Representatives, we are convinced that Congress clearly intended that the word "account" should be considered as including the making of payment. Unless it is so considered, it will be sufficient hereafter for any commission merchant selling goods for the account of growers or others merely to transmit to his principal an account sales showing the amount due without making any payment therefor; likewise, any dealer who buys fresh fruits or fresh vegetables will be able, under the court's interpretation, to satisfy the requirements of this act by furnishing a mere statement to the seller that a certain amount is due. Such an interpretation obviously destroys the value of that portion of paragraph 4 of section 2 relating to accounting, and nullifies what we believe to be the clear desire of Congress on this point. Unless rectified speedily a chaotic situation is bound to be created in the produce industry by those seeking to take advantage of this court decision.

While it is the intention of the Department to request the Department of Justice to carry this issue to the Supreme Court of the United States, it is realized that such a proceeding, of a necessity, requires considerable time. Meanwhile, we shall be at a loss to know how to proceed with complaints under the Perishable Agricultural Commodities Act involving failure truly and correctly to account, which complaints constitute more than 50 percent of those arising under the act. If the Supreme Court should sustain the decision of the court, we might find ourselves compelled thereafter to refuse all complaints involving failure truly and correctly to account. It is believed, therefore, that the most efficient and practicable manner of handling the situation is to seek speedy action on the proposed amendment.

The Bureau of the Budget has advised that there is no objection to the submission of this proposed legislation to the Congress.

Sincerely,

GROVER B. HILL,  
*Assistant Secretary.*

### CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in the Perishable Agricultural Commodities Act, 1930, as amended, made by the reported bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

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"[(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account promptly in respect to any transaction in any such commodity to the person with whom such transaction is had;]

*"(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any transaction in any such commodity to the person with whom such transaction is had; or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction;"*

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